

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**JC&A, LLC**  
**ZONING MAP AMENDMENT REPORT (#FZC-16-10)**  
**OCTOBER 24, 2016**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by JC&A LLC, for a zoning map amendment within the Westside Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from '*R-1 Suburban Residential*' to '*I-1 Light Industrial*.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on November 9, 2016 at 6:00 P.M. in the 2<sup>nd</sup> Floor Conference Room of the Earl Bennett Building located at 1035 1<sup>st</sup> Avenue West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment.

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11<sup>th</sup> Street West, Suite 220 in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Planning Board**

This space will contain an update regarding the November 9, 2016 Flathead County Planning Board hearing.

**B. Commission**

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Owner**

JC&A LLC  
P O Box 1621  
Kalispell, MT 599903

**ii. Applicants**

JC&A LLC  
P O Box 1621  
Kalispell, MT 599903

**iii. Technical Assistance**

None

**B. Subject Property Location and Legal Description**

The subject property is located between U.S. Highway 93 and the U.S. Highway 93 Bypass on Airport Road near Kalispell, MT (see Figure 1 below). The subject properties are located at 2174 Airport Road, south of Kalispell and can legally be described as follows:

Parcel 1: A tract of land 482.00 feet long and 422.00 feet wide located in the Northeast Quarter of the Northeast Quarter of Section 30, Township 28 North, Range 21 West, P.M.M., Flathead County Montana, more particularly described as follows:

Beginning at a point 30.00 feet West of the Northeast section corner of Section 30, which said point is located at the intersection of the North boundary line of said section with the West boundary line of the county highway; thence

South and along the Westerly boundary line of said county highway, a distance of 30.00 feet to the True Point of Beginning of the tract described herein; thence

South and along the Westerly boundary line of said county highway, a distance of 422.00 feet; thence

West and parallel with the North boundary line of said section, a distance of 482.00 feet; thence

North and parallel with said Westerly boundary of said county road, a distance of 422.00 feet; thence

East and parallel with said North boundary line of said section, a distance of 482.00 feet to the True Point of Beginning.

Parcel 2: A tract of land 382.00 feet long and 30.00 feet wide situated in the Northeast Quarter of the Northeast Quarter of Section 30, Township 28 North, Range 21 West, P.M.M., Flathead County Montana, more particularly described as follows:

Beginning at a point 130.00 feet West of the Northeast section corner of Section 30, which said point is located 100.00 feet West of the intersection of the North boundary line of said section and the West boundary line of the county highway; thence

from said Point of Beginning running South and parallel with said Westerly boundary of said county road, a distance of 30.00 feet; thence

West and parallel with said Northerly boundary of said section, a distance of 382.00 feet; thence

North and parallel with said boundary of said Section 30; thence

East and along said North boundary line, a distance of 382.00 feet to the Point of Beginning.

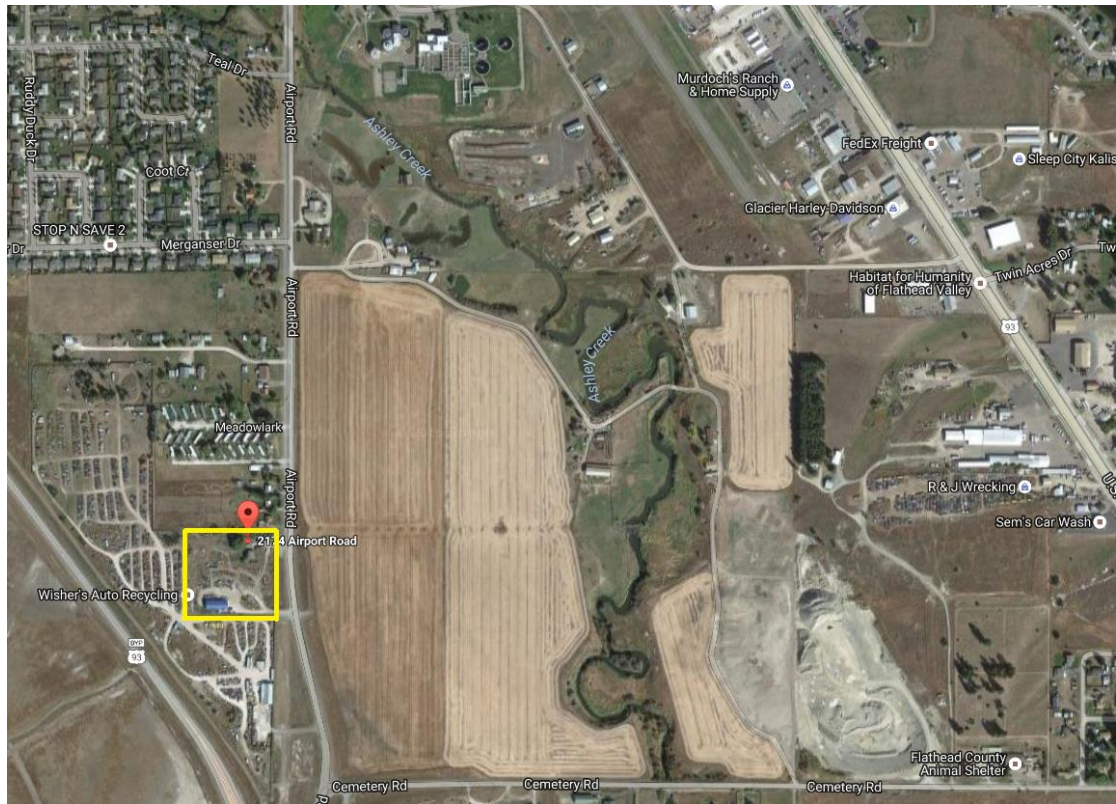
Parcel 3: A tract of land 100.00 feet long and 30.00 feet wide situated in the Northeast Quarter of the Northeast Quarter of Section 30, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana, more particularly described as follows:

Beginning at a point 30.00 feet West of the Northeast section corner of Section 30, which point is the point of intersection of the North boundary line of said section with the Westerly boundary of the county highway; thence

from said Point of Beginning, running South along the Westerly boundary of the said county road, a distance of 30.00 feet; thence

Westerly and parallel to the Northerly boundary of said Section 30, a distance of 100.00 feet; thence North and parallel to the Westerly boundary of said county road, a distance of 30.00 feet to the North boundary line of said Section 30; thence Easterly along said section line, a distance of 100.00 feet to the True Point of Beginning.

**Figure 1:** Subject property outlined in yellow



### C. Proposed Zoning Map Amendment

The subject property is located within the Westside Zoning District and is currently zoned 'R-1 Suburban Residential' (see Figure 2 below). The applicant has requested the zoning map amendment for the property to zone it 'I-1 Light Industrial.' Per Section 3.09 of the Flathead County Zoning Regulations (FCZR), R-1 is 'A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).'

The I-1 designation is defined in Section 3.27 FCZR as, 'A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.'

The present owners are currently in violation of zoning with the use of the property to operate a construction contracting business and construction storage yard. On April 25, 2016 the Planning and Zoning Office received a complaint concerning the owner's use of the property for business/commercial/industrial purposes. File FZT-16-09 was created and the Code Compliance Officer has been working with the applicants on options for the applicants to come into compliance with the current R-1 zoning designation. As a result, the application to change the current zoning from R-1 to I-1 on the subject property was submitted to the office on August 29, 2016. The granting of the change of zoning from R-1 to I-1 would bring the property into compliance with its current use. The properties to the north are residential, to the west and south is developed with a wrecking and salvage yard and to the east is currently agricultural use.

## E. Adjacent Zoning and Character of the Overall Zoning District

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**Figure 3:** Westside Zoning District (outlined with dashed black line & subject property outlined in red)



#### **F. Public Services and Facilities**

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Elrod School District Flathead High School District
Fire:	South Kalispell Fire District
Police:	Flathead County Sheriff

#### **G. Criteria Used for Evaluation of Proposed Amendment**

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

#### **H. Compliance With Public Notice Requirements**

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on October 21, 2016. Legal notice of the Planning Board public hearing on this application was published in the October 23, 2016 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

#### **I. Agency Referrals**

Referrals were sent to the following agencies on October 3, 2016:

- Bonneville Power Administration
- City of Kalispell Planning Department
- South Kalispell Fire District
- Flathead City-County Health Department
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Flathead County Solid Waste
- Flathead County Weeds and Parks Department

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for November

9, 2016 and/or the Commissioner's Public Hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

## **B. Agency Comments**

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Flathead Environmental Health Department
  - Comment: "We have no objection to the proposed zone change request." Letter dated October 12, 2016.
- Flathead County Road & Bridge Department
  - Comment: "At this point the County Road Department does not have any comments on this request." Letter dated October 11, 2016.
- City of Kalispell Planning Department
  - Comment: "We would recommend the proposed zone change of I-1 (Light Industrial) be **denied** based on the following issues and concerns:
    1. The City of Kalispell's Growth Policy Future Land Use Map depicts the subject property as Urban Residential. The Urban Residential land use category projects single-family housing as the primary housing type, but duplexes and small dispersed areas of multi-family housing are anticipated as well. Industrial development would not be an anticipated form of growth on this property. Additional industrial uses (in addition to salvage yard) in the area could discourage residential development as they are not compatible uses when placed adjacent to one another.
    2. As I'm sure you are aware, the bond just last week to build a new elementary school on land immediately to the east of the subject property. This elementary school has a scheduled opening date of August, 2018. Industrial type uses are not an appropriate nor a compatible use adjacent to a school.
    3. With the development of a new school, it is anticipated that over the next 3-5 years, all the land east of Airport Road down to Cemetery Road and all the adjacent lands on the west side of Airport Road as well will be immediately poised to develop into housing. One only has to look at the Edgerton School neighborhood to understand what the short term future holds for this neighborhood. The further intrusion of industrial land into this neighborhood is seen as a serious detriment to the future welfare of this neighborhood and a significant lost opportunity for families to be able to live close to an elementary school and a possible future middle school.
    4. Finally, with the advent of the new elementary school and possible future middle school, Kalispell water, sewer and storm sewer

facilities will be extended along Airport Road in the next 12 months. Consequently if development occurs on the site indicated for industrial use, the possibility is very real that they will be faced with a requirement to hook up to city services. With this brings the requirement of annexation into the city. We at the city are then faced with the unenviable situation of dealing with development that does not fit the long range or even short range vision of the city.

Adding to the commercial and industrial zoning inventory at this time and at this location is not appropriate based on the points above. We would encourage the Flathead County Planning Board and Board of County Commissioners to consider the above comments and possible negative effects approving a I-1 Zoning District would have along this portion of Airport Road. We ask you look toward the greater future of this neighborhood, the community and School District 5 and recommend that this zone change be denied.” Letter dated October 13, 2016

#### **IV. EVALUATION OF PROPOSED AMENDMENT**

##### **A. Build-Out Analysis**

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

##### **i. Current Zoning**

The proposed zoning map amendment would change the zoning designation on the subject property from ‘*R-1 Suburban Residential*.’ R-1 is defined in Section 3.09.010 FCZR as, ‘*A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).*’ The following is a list of permitted uses in an R-1 zone:

1. *Agricultural/horticultural/silvicultural use.*
2. *Class A manufactured home.*
3. *Day care home.*
4. *Dwelling, single-family.*
5. *Dwelling unit, accessory (ADU).*



6. *Guest house.*
7. *Home occupation.*
8. *Homeowners park and beaches.*
9. *Livestock*
10. *Nursery, landscaping materials.*
11. *Park and publicly owned recreational facility.*
12. *Produce stand.*
13. *Public transportation shelter station.*
14. *Public utility service installation.*
15. *Stable, public and private.*

The following uses are listed as conditional uses in an R-1 zone. An asterisk designates conditional uses that may be reviewed administratively, two asterisks designates conditional uses that may be reviewed administratively with eight or fewer:

1. *Airfield.*
2. *Aircraft hangars when in association with properties within or adjoining an airport/landing field.\**
3. *Bed and breakfast establishment.*
4. *Camp and retreat center.*
5. *Caretaker's facility.\**
6. *Cellular antenna & monopole.*
7. *Cemetery, mausoleum, columbarium, crematorium.*
8. *Church and other place of worship.*
9. *Community center building operated by a non-profit agency.*
10. *Community residential facility.\*\**
11. *Dwellings, cluster development.*
12. *Dwelling, family hardship.\**
13. *Electrical distribution station.*
14. *Extractive industry.*
15. *Golf course.*
16. *Golf driving range.*
17. *Manufactured home park.*
18. *Radio and television broadcast station.*
19. *Stable, public.*
20. *Temporary building or structure.\**
21. *Water and sewage treatment plant.*
22. *Water storage facility.*

The bulk and dimensional standards under R-1 zoning has a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. For non-conforming properties with lot widths of less than 150 feet, the side yard setback shall be 10 feet each. For non-conforming properties with lot widths of less than 50 feet, the side yard setback shall be 5 feet

each. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The permitted lot coverage is 40% and a maximum height of 35 feet for principal structures is allowed.

The R-1 zoning requires a minimum lot area of 1 acre. The subject property totals 4.3 acres therefore, approximately 3 additional lots could be created under the existing zoning.

**ii. Proposed Zoning**

As previously stated, the applicant is proposing 'I-1 Light Industrial' zoning. I-1 is defined in Section 3.27.010 FCZR as, '*A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.*' The following is a list of permitted uses in an I-1 zone:

1. *Accessory apartments.*
2. *Animal related services such as pet grooming and training, veterinary clinic and animal hospital, taxidermy, aviary and farrier services.*
3. *Art foundry.*
4. *Auction yard, without livestock.*
5. *Automobile, RV, watercraft (new and used) and accessory sales.*
6. *Automobile service station.*
7. *Boat sales, new and used.*
8. *Bus station.*
9. *Car wash.*
10. *Cellular tower.*
11. *Church and other place of worship.*
12. *Contractors' storage yard and building supply outlet.*
13. *Day care center.*
14. *Direct mailing and telemarketing.*
15. *Farm equipment sales.*
16. *Feed, seed and farm supply, including grain elevators.*
17. *Financial institution.*
18. *Food store, supermarket, and delicatessen.*
19. *Health club.*
20. *Heating, ventilation, air conditioning and plumbing sales, service and repair.*
21. *Heavy equipment sales, rental and service.*
22. *High tech industrial business.*
23. *Hotel, motel.*
24. *Janitorial service.*
25. *Light assembly and manufacturing, fabrication and processing, repairing, packing, storage facilities, warehousing and distribution of products and equipment provided that such uses do not produce objectionable impacts*

*beyond the lot lines and do not involve materials that are explosive, hazardous or toxic. Examples of such uses would include but are not limited to the following:*

- A. Automobile, bus, truck, boat and equipment washing, detailing, repairing, service and storage.*
  - B. Manufacture of products such as clothing; furniture; fabricated wood, glass, plastic and metal products; leather and leather goods; medical, dental and optical products and equipment and boat building.*
  - C. Processing and manufacturing of food such as baked goods, dairy products, alcoholic beverages and beverage manufacturing and bottling.*
  - D. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture.*
  - E. Storage and warehousing such as mini-storage, boat and vehicle storage.*
- 26. Lodge and fraternal and social organization, provided that any such establishment shall not be conducted primarily for gain.*
  - 27. Lumber yard, building materials; storage and sales.*
  - 28. Manufactured home sales and storage.*
  - 29. Nursery and landscape materials, wholesale and retail.*
  - 30. Office.*
  - 31. Parcel delivery service.*
  - 32. Park and publicly owned recreational facilities.*
  - 33. Public transportation shelter station.*
  - 34. Public utility service installation. (A minimum of five feet of landscaped area shall surround such building or structure.)*
  - 35. Quasi-public building (fire station, government offices, etc.)*
  - 36. Radio and television broadcast station.*
  - 37. Recreational facility, high-impact.*
  - 38. Recreational facility, low-impact.*
  - 39. Recreational vehicle park.*
  - 40. Recycling drop-off station.*
  - 41. Rental store and yard.*
  - 42. Research laboratory and institution.*
  - 43. Retail sales and services.*
  - 44. Restaurant.*
  - 45. Security guard service.*
  - 46. Theater, housed in permanent indoor structures.*
  - 47. Tire recapping and retreading.*
  - 48. Truck terminal.*
  - 49. Wholesale trade and warehousing.*

The following uses are listed as conditional uses in an 'I-1' zone. An asterisk designates conditional uses that may be reviewed administratively:

- 1. Auction yard, livestock.*
- 2. Automobile wrecking yard, junkyard, salvage yard.*

3. *College, business school, trade school, music conservatory, dance school.*
4. *Commercial caretaker's facility in a detached accessory building in conjunction with a business.\**
5. *Commercial recreation area.*
6. *Communication tower/mast.*
7. *Convention hall facility.*
8. *Electrical distribution system.*
9. *Golf driving range and putting course.*
10. *Landfill, sanitary for disposal of garbage and trash.*
11. *Mini-storage, RV storage.*
12. *Mortuary.*
13. *Radio and television broadcast station.*
14. *Recycling processing plant.*
15. *Small wood product processing with five (5) or less employees.*
16. *Tavern.*
17. *Temporary building or structure.\**
18. *Water storage facility.*

The bulk and dimensional standards under I-1 zoning requires a setback from the boundary line of 20 feet for the front, rear and side-corner and 10 feet for the side for any structure. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The I-1 zone has no permitted lot coverage, a maximum height of 40 feet and a minimum lot width of 75 feet.

The I-1 zoning requires a minimum lot area of 7,500 square feet. The subject property totals 4.3 acres and in typical subdivisions 30% of the lot is dedicated to infrastructure, leaving approximately 70% for lots. Therefore, approximately 17 lots could be created under the proposed zoning.

In summary, the requested zone change from R-1 to I-1 has the potential to increase density through subsequent division in the future. The bulk and dimensional requirements vary from R-1 to I-1 and the amendment would introduce uses to the subject.

**B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

**i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally the property is located within the Kalispell City-County Master Plan 2010, adopted on February 6, 1986 by the Flathead County Commissioners (Resolution #578A) and the City of Kalispell on April 7, 1986 (Resolution #3641).

## 1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Residential Land Use.’ The proposed ‘I-1 Light Industrial’ zoning classification would appear to contrast with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ❖ *G.2 – Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
- ❖ *G.5 – Adequate industrial land in areas that are close enough to goods and services to be efficient but far enough from other uses to offset objectionable impacts to the human and natural environment.*
  - The applicant is proposing an industrial zone on Airport Road just outside of the City of Kalispell, adjacent to existing industrial zoning.
- *P.5.1 – Match requirements of industrial land uses (such as human resources, adequate water supply, suitable road networks) and areas of Flathead County where those requirements can best be met.*
- *P.5.2 – Promote industrial parks and centers that take advantage of infrastructure and minimize impacts to the environment or adjacent land uses.*
  - The applicant is proposing an industrial zone adjacent to an existing industrial area and just outside the city limits of Kalispell. The property is located on 2174 Airport Road between Highway 93 and the Highway 93 Bypass.



- *P.5.5 – Restrict industrial uses that cannot be mitigated near incompatible uses such as residential, schools, environmentally sensitive areas such as wetlands, floodplains, riparian areas, areas of shallow groundwater, etc.*
  - The applicant is proposing an industrial zone adjacent to industrial uses and agricultural. The property is not located within an environmentally sensitive area and not currently located next to a school.
- ❖ *G.21 – A healthy and vibrant Flathead County economy that provides diversity and living-wage job opportunities and is comprised of sustainable economic activities and private sector investment.*
  - *P.21.1 – Provide adequate land area designated for commercial and industrial use to promote affordability, creating entrepreneurialism and/or businesses relocation to Flathead County.*
    - The proposed industrial zoning has the potential to allow for the expansion of an existing locally owned industrial use which has the potential to create living-wage jobs.
  - *P.22.2 – Promote business centers and industrial parks in areas served by sufficient infrastructure with consideration to proximity to population densities.*
    - The proposed industrial zoning is located outside of the city limits of Kalispell and is adjacent to existing Industrial zoning.
- ❖ *G.32 – Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ *G.33 – Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
  - This report contains discussion on the adequacy of emergency service below.
- ❖ *G.46 – Honor the integrity and purpose of existing neighborhood plans respecting the time and effort of the community involvement that has taken place.*
  - This report contains discussion on the Kalispell City-County Master Plan.

**Finding #1:** The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map and the ‘Residential Land Use’ designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.

## 2. Kalispell City-County Master Plan

The Kalispell City-County Master Plan Map (Master Plan) serves as a localized planning tool for the area surrounding the City of Kalispell. The Master Plan was incorporated into the Growth Policy to provide more specific guidance on future development and land use decisions within the plan area at

the local level. The Master Plan is composed of three major components, the text, the map and the goals and objectives. According to the Master Plan, *“Relying on only one component will not always give a clear picture of the broad community concepts or the spirit of the Plan.”* This report contains discussion on compliance with all three components of the Master Plan.

The Kalispell City-County Master Plan Year 2010 currently designates the land use of the subject property as *‘Urban Residential’*. Chapter 5 Land Uses of the Master Plan defines *‘Urban Residential’* as, *“A residential district which provides a gross density of two-eight units per acre. Such areas should be served by a community water and sewer system and have all other customary urban services including fire and police protection, garbage disposal and access to schools, parks and open spaces and the major street system. Developments would include single family and duplex housing, manufactured housing on individual lots and attached housing under a planned unit development concept where adequate open space is provided to compensate for the increased density.”*

*This district encompasses the heart of the residential community and is located throughout the urbanized area. Major growth areas are seen along West Evergreen Drive west of the Whitefish River, north of Kalispell along the west side of the Stillwater River and generally northwest and west of Kalispell.”*

The following goals and objectives of the Master Plan appear applicable to the proposed Master Plan map amendment, and generally indicate consistency with the proposal:

**3. *Environment*** – *Air, water, open space and scenic vistas unhindered by pollution, blight or other factors.*

The definition of I-1 Light Industrial is “A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.”

- a.** *Establish strict standards for all development which occurs in environmentally sensitive or critical areas such as floodplains, lakeshores, drainage ways or excessive slope areas.*
- b.** *Where appropriate, preserve areas within the 100 year floodplain in a natural state as parkland, wildlife habitat, open space or agriculture.*
  - The subject property is not located within the 100-year floodplain.

**5. *Economy***

- g.** *Promote the location of business and clean light industrial so as to provide job opportunities and maintain Kalispell’s position as a retail shopping center for northwest Montana.*
  - The proposed amendment would promote clean light industrial because it would allow for additional acreage zoned I-1 and the

definition of the I-1 zone states, “A district to provide areas of light industrial uses and services that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein” [Section 3.27 FCZR].

**6. Land Use** – *The orderly development of the planning jurisdiction with ample space for future growth while, at the same time, ensuring compatibility of adjacent land uses.*

- The subject property is adjacent to I-1, located approximately .5 miles from existing I-1 and I-1H zoning and .3 miles from existing I-2 zoning.

**e.** *Establish additional areas for light industrial expansion within or directly adjacent to the city. Target clean light industrial uses around the airport away from height restricted areas to serve as a buffer for adjacent land uses and to take advantage of airport transportation services.*

- The proposed map amendment would establish additional areas for light industrial near annexed areas of the city and the Kalispell City Airport.

**8. Public Facilities** – *An economical, balanced distribution of public facilities and services throughout the planning jurisdiction for present and anticipated future residents.*

**a.** *Designate areas of future development which are already serviced or area in areas which can be economically serviced by water and sewer, police and fire protection, etc.*

- This report contains discussion on the adequacy of emergency service and public facilities below.

**Finding #2:** The proposed zoning map amendment does not appear to comply with the text and map of the Kalispell City-County Master Plan because the property is designated as ‘*Urban Residential.*’

**Finding #3:** The proposed zoning map amendment appears to comply with the goals and objectives of the Kalispell City-County Master Plan because the property is located adjacent to and near other industrial zoning and it would establish additional areas for light industrial near annexed areas of the city and the Kalispell City Airport.

**ii. Whether the proposed map amendment is designed to:**

**1. Secure safety from fire and other dangers;**

The subject property is located within the South Kalispell Fire District and the nearest fire and emergency response center is located approximately 1.75 road miles northeast of the property on Willow Glen Drive. The South Kalispell Fire Department would respond in the event of a fire or medical emergency. The subject property is not located within the Wildland Urban Interface WUI

or within a fire district priority area and the South Kalispell Fire Department did not provide comments on this proposal.

The application states, “The property is within the South Kalispell Fire District and the nearest fire and emergency response center is located...northeast of the property on Willow Glen Drive, and would respond in the event of a fire or medical emergency. Property development provides for sufficient access for emergency vehicles.”

The subject property is located on FEMA FIRM Panel 30029C 1820J and the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard.

The subject property is located on Airport Road a two lane public road within a 60 foot easement. The road appears adequate to provide ingress and egress for emergency services.

**Finding #4:** The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI, is located 1.75 road miles from the nearest fire station and is located on a public road.

**2. Promote public health, public safety, and general welfare;**

As previously stated, the subject property is located within the South Kalispell Fire District and the nearest fire and emergency response center is located approximately 1.75 road miles to the northeast. The South Kalispell Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff’s Department provides police services to the subject property. Airport Road appears adequate to provide ingress and egress for emergency services which would help to ensure adequate public health and safety.

I-1 is defined as a district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors some etc.), as such the proposal is not anticipated to adversely impact public health, safety or general welfare.

**Finding #5:** The proposed zoning map amendment would likely not have a negative impact on public health, safety and general welfare because the property is served by the South Kalispell Fire Department, Flathead County Sheriff and current development would comply with the allowed uses in an I-1 zone which do not produce objectionable by-products per the definition.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family residential. The property is approximately 4.3 acres in size and the minimum lot size for the current R-1 zone is 1 acre. Therefore, approximately 4 single family homes could be constructed on the subject property, which would generate 40 average daily trips.

According to the ITE Trip Generation Manual 5<sup>th</sup> Edition “General Light Industrial” generates approximately 51.80 average daily trips per acre for a

weekday. The subject property is approximately 4.3 acres therefore the property has the potential to generate 223 average daily trips. The average daily trips for light industrial would be greater than if the property was developed with residential under the current zoning.

Primary access to the property is currently off Airport Road. Airport Road is a two-lane paved public road within 60 foot easement. Airport Road connects with the Highway 93 Bypass. Traffic counts for Airport Road in 2015 indicate 4,930 average daily trips. The proposed zoning has the potential to increase traffic by 4.5 percent. The Flathead County Road Department comment indicates no concerns regarding this proposal.

Comment from Environmental Health states, "We have no objection to the proposed zone change request." Further division of land will require review under the Sanitation and Subdivision Act through the Flathead City-County Health Department and the Montana Department of Environmental Quality.

The application states, "Well logs in the vicinity of the subject property indicate that adequate water supply is available for individual wells, multi-user wells, or public wells to serve the future, whichever is determined to be needed. Water is currently provided by a well located on the subject property, and water usage is not expected to change. As no subdivision of the parcel is anticipated, any further development must be in accordance with the Flathead County Air Pollution Control regulations."

While the subject property is located within the Flathead High School District and Elrod Elementary School District, it is noted the proposed industrial use would not generate any school children.

Comment from the City of Kalispell concerning schools states a bond was passed "to build a new elementary school on land immediately to the east of the subject property. This elementary school has a scheduled opening date of August, 2018. Industrial type uses are not an appropriate nor a compatible use adjacent to a school...it is anticipated that over the next 3-5 years, all the land east of Airport Road down to Cemetery Road and all the adjacent lands on the west side of Airport Road as well will be immediately poised to develop into housing...The further intrusion of industrial land into this neighborhood is seen as a serious detriment to the future welfare of this neighborhood and a significant lost opportunity for families to be able to live close to an elementary school and a possible future middle school." The land across Airport Road referred to in the Kalispell comment is currently zoned R-1 and R-5 with existing residences. The property slated for the building of the future elementary school is adjacent to I-2 zoning to the north with a sewer treatment plant farther north, I-1 zoning exists to the northeast and east, Kalispell I-1 zoning is to the northeast, and there is an active gravel pit to the southeast which is adjacent to I-1H zoning.

The zoning map amendment would not impact the existing park system because minimal demand on existing parks would be created.



**Finding #6:** The proposed amendment would facilitate the adequate provision of transportation because the County Road and Bridge Department comments indicates no concerns with this proposal and the traffic generated by the proposed zoning has the potential to increase traffic by 4.5 percent on a county collector capable of handling the increase in traffic.

**Finding #7:** The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality and there would be minimal impact on schools and parks as a result of this proposal as residential would likely not be generated.

**iii. In evaluating the proposed map amendment, consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

The application states, “The I-1 zone has building height restrictions, minimum building setbacks and maximum fence height requirements that will provide for adequate light and air.”

The minimum lot area for the proposed I-1 zone is 7,500 square feet and the minimum lot area for the existing R-1 zone is 1 acre. The density allowed within the I-1 zone is greater than the density allowed within the current R-1 zone. The maximum building height within the proposed I-1 zone is 40 feet and the maximum height for the existing R-1 zone is 35 feet. The permitted lot coverage is 40% for the R-1 zone and permitted lot coverage is not applicable in the I-1 zone. More of the acreage could be covered by structure under the proposed I-1 zone because there is no applicable lot coverage in the I-1 zone.

The R-1 zone requires a setback from the boundary line of 20 feet for the front, rear, side-corner and side for the principal structure. A separate minimum setback is required for accessory structures of 20 feet from the front and side corner and 5 feet from the rear and side property line. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The bulk and dimensional requirements in the I-1 zone require a setback from the boundary line of 20 feet for the front, rear and side-corner and 10 feet from the side for the structure. There is not a separate setback requirement for accessory structures as is the case in the existing zone. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials. The bulk and dimensional requirements for the I-1 designation have been established to provide for a reasonable provision of light and air.

**Finding #8:** The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development

would be required to meet the bulk and dimensional requirements within the proposed I-1 designation.

**2. The effect on motorized and non-motorized transportation systems;**

Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling for single family. The property is approximately 4.3 acres in size and the minimum lot size for the current R-1 zone is 1 acre. Therefore, approximately 4 single family homes could be constructed on the subject, which would generate 40 average daily trips. According to the ITE Trip Generation Manual 5<sup>th</sup> Edition “General Light Industrial” generates approximately 51.80 average daily trips per acre for a weekday. The subject property is approximately 4.3 acres therefore the property has the potential to generate 223 average daily trips. The average daily trips for light industrial would be greater than if the property was developed with residential under the Suburban Residential zone.

Primary access to the property is currently off Airport Road. Airport Road is a two-lane unclassified local road within 60 foot easement. Airport Road connects Highway 93 with the Highway 93 Bypass. Traffic counts for Airport Road indicate 4,930 average daily trips. The proposed zoning has the potential to increase traffic 4.5 percent. The Flathead County Road Department comments indicate no concerns regarding this proposal.

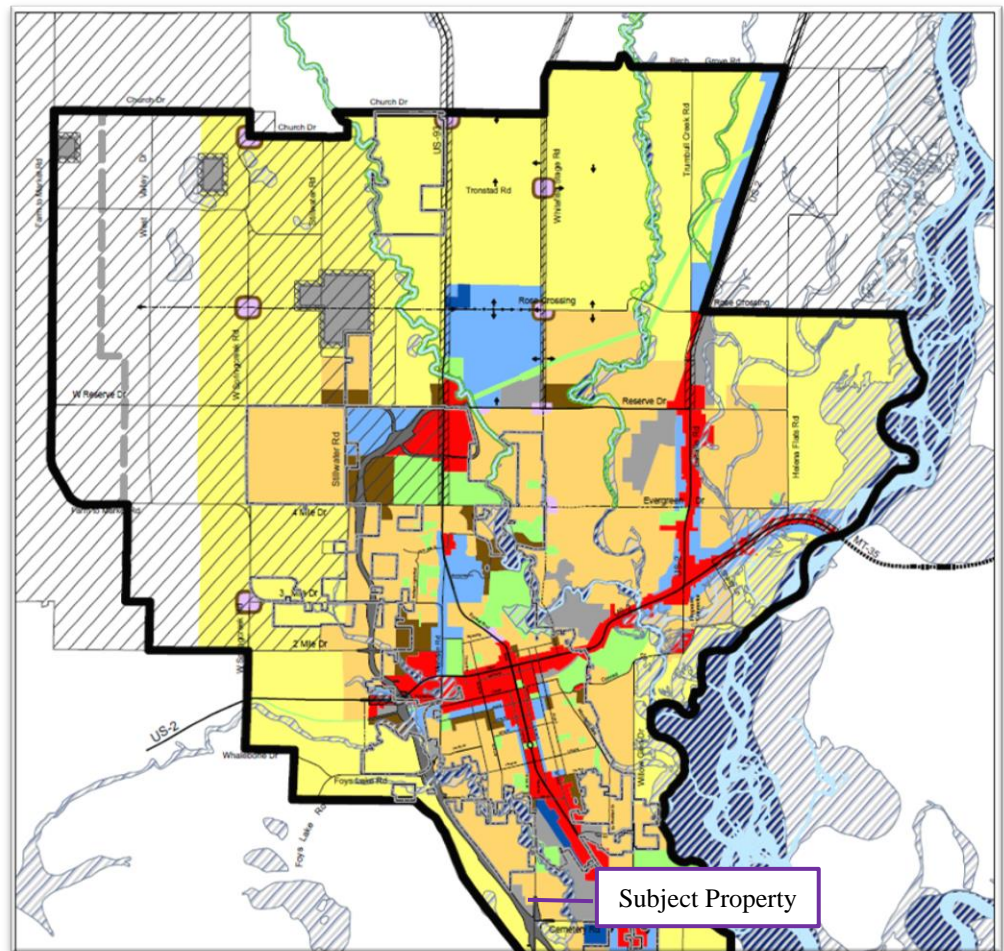
The Flathead County Trails Plan identifies Airport Road as a proposed connector bike/pedestrian trail. If the applicant develops the property through subdivision a pedestrian easement would be required to accommodate a future bike/pedestrian trail.

**Finding #9:** Effects on motorized and non-motorized transportation systems will be minimal because the County Road and Bridge Department had no concerns with this proposal and the traffic generated by the proposed zoning could increase traffic by 4.5 percent.

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

Kalispell is the nearest municipality to the subject property and is located approximately .18 of a mile west of the property. The property is located within the boundary of the Kalispell Growth Policy. An agency referral was sent to the Kalispell planning department on October 3, 2016. Comment received from the Kalispell Planning Department on October 13, 2016 voiced concern with industrial uses on the property discouraging future residential uses in the area, the compatibility with a potential future elementary school in the area, the detriment to the future welfare of the neighborhood, lost opportunity for families to live near an elementary school and possible future middle school and the possibility of, in the future, Kalispell having to deal with development that does not fit the long or short range vision of the city.

**Figure 4:** City of Kalispell Growth Policy Future Land Use Map



The subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated the property as *'Urban Residential.'* The proposed *'I-1 light Industrial'* zoning would not comply with the designation of *'Urban Residential'* however, currently neighboring the subject property to the west and south is property zoned I-1, to the north, adjacent to the property of the proposed elementary school is zoned I-2, within .13 miles of the subject property is the sewer treatment facility and within .3 miles is the city airport. Also within approximately .5 miles to the east of the subject property is two additional I-1 zones and one I-1H zone .57 miles to the southeast. (See figure 2)

The application states, "The proposal is compatible with the urban growth in the area, currently bordered on the south and west by industrial property and Airport road to the east. The south Kalispell corridor along Highway 93 is developed with well established businesses which include light industrial as well as other businesses on Airport Road of the same designation."

**Finding #10:** The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and appears to be incompatible

with the designation of 'Urban Residential' however the property is bordered by I-1 on the west and south sides, is within .5 miles of both I-1 and I-2 zoning designations and within .57 miles of I-1H to the southeast.

**4. The character of the district(s) and its peculiar suitability for particular uses;**

The character of the district and its peculiar suitability for particular uses can best be addressed using the "three part test" established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

**i. *The zoning allows a use that differs significantly from the prevailing use in the area.***

The intent of the currently existing 'R-1 Suburban Residential' zone is 'to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., topography, areas adjacent to floodplains, airport runway alignment extensions.)' The proposed 'I-1 Light Industrial' zone is intended for light industrial uses and services that typically do not create objectionable by-products which extend beyond the lot lines. Bordering the property on the west and south sides which is currently zoned I-1 is a salvage yard. In the vicinity of the subject property is County I-1, I-2, SAG-10, R-1, R-5 zoning and Kalispell R-4 zoning. Located .33 miles to the northeast is a meat packing plant in a County I-2 zone, .60 miles to the southeast is an undeveloped County I-1H zone, and at .55 miles and .86 miles to the east in County I-1 zones are wrecking yards.

Allowing the zoning of the subject property to change to I-1 would allow uses on the property that do not differ significantly from the mix of prevailing uses in the area and would also bring the property into zoning compliance with its current non-conforming use as a contractor storage yard.

**ii. *The zoning applies to a small area or benefits a small number of separate landowners.***

The zoning map amendment would apply to three tracts of land owned by one landowner totaling 4.7 acres.

Adjacent to the property on the west and south sides is an I-1 district of approximately 11.5 acres. To the northeast, approximately 9 acres and 40.8 acres are an I-1 district. The zoning map amendment would benefit one land owner; however the new I-1 zoning district would enlarge the

existing I-1 that borders the subject property and be compatible with the existing I-1 in the area.

*iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

The requested map amendment to I-1 would primarily alter the minimum lot size permissible and uses. In the event the subject properties were subsequently developed to the greatest build-out possible the 7,500 square feet minimum lot size would result in a higher density development than currently established in the area and on adjacent properties.

The property is owned by single land owner and is 4.7 acres in size. Property bordering the subject property to the west and south are zoned I-1. Properties to the northeast are zoned I-2 and I-1. In the vicinity of the property there is also the sewer treatment plant and the Kalispell City Airport.

The zoning map amendment would benefit one landowner but not at the expense of the surrounding landowners and general public because the proposal is legislation to be compatible with existing land uses in the area.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does appear to meet all three of the criteria.

**Finding #11:** The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within the I-1 and zoning to the south, west and northwest of the property and the size of the I-1 zoning district would extend the previously existing I-1 district.

**5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The subject property is located within the Westside Zoning District and surrounded by industrial, residential and agricultural zones (see Figure 2). The application states, "Approval of this zoning amendment would conserve the value of buildings in the area and the proposed use would provide the best use for the land. Additional building could be built on the property consistent with the I-1 designation of nearby zoned properties, and help improve building values."

Neighboring properties to the south, west, northwest and northeast are similarly zone I-1 and I-2. The uses allowed within the proposed zoning would be similar to the uses allowed with the neighboring industrial areas. The use of property is currently in a nonconforming use with a contractor storage yard and the property directly to the south and west is in use as a wrecking/salvage yard. Industrial uses would seem to be the most compatible



use of the land adjacent to a wrecking/salvage yard and other industrial zoned lands.

**Finding #12:** This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the I-1 designation allows for similar uses to the existing uses on the I-1 and I-2 zoned properties nearby, the property is a nonconforming use as a contractors storage yard and adjacent to an wrecking/salvage yard.

**iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

The location of the proposed zoning map amendment is not directly adjacent to any city but is located within .19 miles of the City of Kalispell. As previously stated, the subject property is included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The Kalispell Growth Policy Planning Area Map designated the property as *'Urban Residential.'*

The nearest City of Kalispell zoning is R-4, and to the northeast is City I-1 zoning adjacent to the Kalispell Airport and sewer treatment plant which is less than a half mile away from the subject property. The Kalispell *'I-1 Light Industrial'* zone is defined as, *'An industrial district intended to provide areas for light industrial, research and technology. The uses would typically not create objectionable characteristics (such as dirt, noise, glare, heat, odor, smoke, etc.), which extend beyond the lot lines. This zoning district would typically be restricted to areas designated as industrial on the Kalispell Growth Policy Future Land Use Map.'* The definition of the proposed I-1 zone is similar to the definition of the City I-1 with similarly allowed uses.

**Finding #13:** The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone has a similar definition to the City's I-1 and is compatible with the City's nearby I-1 zoning with similarly allowed uses.

**V. SUMMARY OF FINDINGS**

- 1) The proposed zoning map amendment generally complies with the Flathead County Growth Policy because applicable goals, policies and text appear to generally support the request, the Designated Land Use Map is not a future land use map and the *'Residential Land Use'* designation identified by the Designated Land Use Map portrays only zoning which was established at the time the map was created.
- 2) The proposed zoning map amendment does not appear to comply with the text and map of the Kalispell City-County Master Plan because the property is designated as *'Urban Residential.'*
- 3) The proposed zoning map amendment appears to comply with the goals and objectives of the Kalispell City-County Master Plan because the property is located

adjacent to and near other industrial zoning and it would establish additional areas for light industrial near annexed areas of the city and the Kalispell City Airport.

- 4) The proposed map amendment will not impact safety from fire and other danger because the property is not located in the WUI, is located less than two road miles from the nearest fire station and is located on a public road.
- 5) The proposed zoning map amendment would likely not have a negative impact on public health, safety and general welfare because the property is served by the South Kalispell Fire Department, Flathead County Sheriff and current development would comply with the allowed uses in an I-1 zone which do not produce objectionable by-products per the definition.
- 6) The proposed amendment would facilitate the adequate provision of transportation because the County Road and Bridge Department comments indicates no concerns with this proposal and the traffic generated by the proposed zoning has the potential to increase traffic by .04 percent.
- 7) The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality and there would be minimal impact on schools and parks as a result of this proposal as residential would likely not be generated.
- 8) The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements within the proposed I-1 designation.
- 9) Effects on motorized and non-motorized transportation systems will be minimal because the County Road and Bridge Department had no concerns with this proposal and the traffic generated by the proposed zoning could increase traffic by .04 percent.
- 10) The property is located within the extent of the City of Kalispell Growth Policy Future Land Use Map and appears to be incompatible with the designation of 'Urban Residential' however the property is bordered by I-1 on the west and south sides, is within .5 miles of both I-1 and I-2 zoning designations to the north and east and within .57 miles of I-1H to the southeast.
- 11) The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed zone change would allow for the same uses existing within the I-1 and zoning to the south, west and northwest of the property and the size of the I-1 zoning district would be comparable to the size to the neighboring I-1 district.
- 12) This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the I-1 designation allows for similar uses to the existing uses on the I-1 and I-2 zoned properties nearby, the property is a nonconforming use as a contractors storage yard and adjacent to an wrecking/salvage yard.

- 13) The proposed map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of Kalispell because the proposed zone has a similar definition to the City's I-1 and is compatible with the City's nearby I-1 zoning.

**VI. CONCLUSION**

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: DV